



KAPI'OLANI HEALTH

Corporate Integrity Agreement

Voluntary Disclosure Submission

KMCWC Hematology/Oncology Department

September 2001

EXHIBIT D

A20505

LAW OFFICES OF
DENNIS M. WARREN
A PROFESSIONAL CORPORATION

COUNSELORS AT LAW
916-447-9999

725 30TH STREET, SUITE 102
SACRAMENTO, CALIFORNIA 95816

September 18, 2001

Personal and Confidential

Sharon On Leng, General Counsel
Kapi'olani Health
55 Merchant Street, 27th Floor
Honolulu, HI 96813

Patrick H. Jones, Esq.
Marr, Hipp, Jones & Pepper
1001 Bishop Street, 1550 Pauahi Tower
Honolulu, HI 96813

Bob Ching, Compliance Officer
Kapi'olani Health
55 Merchant Street, 27th Floor
Honolulu, HI 96813

Re: **HemOnc OIG Disclosure**

Dear Sharon, Patrick & Bob:

A full copy of the Voluntary Disclosure Statement filed with the Office of the Inspector General under Kapi'olani's Corporate Integrity Agreement is attached. In keeping with the discussions with the HemOnc Steering Committee, let me re-emphasize the extremely sensitive nature of this information and the need to limit any re-distribution of this information to third parties. If either Patrick or Bob feel that the disclosure of some or all of this information is necessary or appropriate, I'm requesting that this be cleared through Sharon **before** re-distribution or disclosure is made.

If you have any comments about the attached document, please give me a call.

Best wishes,

DENNIS M. WARREN
A PROFESSIONAL CORPORATION

By *Dennis M. Warren*
Dennis M. Warren, Esq. *by glo*

Enclosure
pc: Roger Drue
Chuck Sted

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DENNIS M. WARREN
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725 30TH STREET, SUITE 102
SACRAMENTO, CALIFORNIA 95816

September 4, 2001

By Federal Express

Greg Jones, Senior Counsel
Civil Recoveries Branch
U.S. Dept. of Health and Human Services
Office of Inspector General
Office of Counsel to the Inspector General
Room 5527, Cohen Bldg.
330 Independence Ave., S.W.
Washington, D.C. 20201

Re: **Kapi'olani Health**
KMCWC Hematology/Oncology Department
Disclosure of "Material Deficiency"
CIA Agreement, August 1999

Dear Mr. Jones:

The attached binder contains a disclosure submission on behalf of Pacific Health Care, dba Kapi'olani Health ("KH"), pursuant to provision III.H.4(ii) of its August 1999 Corporate Integrity Agreement with the Office of the Inspector General.

The Disclosure discusses a self-identified and investigated problem related to billings performed by Kapi'olani Medical Specialists physicians in the Kapi'olani Medical Center for Women and Children's Hematology/Oncology Department between February 1997 and July 31, 2001.

During this four (4) year time window, claims were paid by 40 third party payors totaling \$64,859.14. Of this figure, \$9,772.61 was paid by Hawaii Medicaid; \$3,717.92 was paid by MedQuest programs; and \$7.00 was paid by Medicare/Tricare.

A review of several key sections of the document may assist your staff in obtaining an overview of the issues as follows:

Greg Jones, Senior Counsel
Civil Recoveries Branch
U.S. Dept. of Health and Human Services
Office of Inspector General
Office of Counsel to the Inspector General

September 4, 2001
Page 2

1. **Introduction and Disclosure Summary**, at pages 1-2
2. **Investigative Findings Summary**, at pages 7-9

We had previously agreed that the thirty (30) day deadline for reporting this matter under Kapi'olani's CIA would be extended to Wednesday, September 5, 2001.

KH is designating two authorized representatives for purposes of this Disclosure as follows:

1. *Sharon On Leng, KH's In-House General Counsel.* Ms. On Leng has been the primary KH contact for outside counsel and the Deloitte and Touche team conducting the Disclosure review. She can be reached as follows:

Sharon On Leng, Esq.
General Counsel
Kapi'olani Health
55 Merchant Street, 27th Floor
Honolulu, HI 96813
Telephone: (808) 535-7485

2. *Dennis M. Warren, KH's Outside Counsel for purposes of this Disclosure.* Mr. Warren has been responsible for coordinating the Disclosure effort. Mr. Warren can be reached as follows:

Dennis M. Warren, Esq.
Law Offices of Dennis M. Warren
725 30th Street, Suite 102
Sacramento, CA 95816
(916) 447-9999

I have signed the Certification for Sharon On Leng, with her authorization, to facilitate this Disclosure by the agreed upon time deadline.

We are confident that a full and open Disclosure and discussion with your office of the issues raised in the attached documents reflects Kapi'olani's ethical values and its commitment to developing an institutional culture which is committed to quality performance, as well as legal and regulatory compliance.

Greg Jones, Senior Counsel
Civil Recoveries Branch
U.S. Dept. of Health and Human Services
Office of Inspector General
Office of Counsel to the Inspector General

September 4, 2001
Page 3

Thank you for your careful review and consideration of KH's Disclosure. We look forward to hearing from you in the very near future.

Very truly yours,

DENNIS M. WARREN
A PROFESSIONAL CORPORATION

By 

Dennis M. Warren, Esq.

Enclosure

pc: Sharon On Leng, Esq., Chief In-House Counsel

A20508



KAPI'OLANI HEALTH

Corporate Integrity Agreement

Voluntary Disclosure Submission

KMCWC Hematology/Oncology Department

September 2001

KAPI'OLANI HEALTH
KMCWC Hematology/Oncology Department
Voluntary Disclosure Submission

TABLE OF CONTENTS

Introduction

Disclosure Summary

Identifying Information

KH'S Designated Representatives for Purposes of Voluntary Disclosure

Identification of Potential Problem

Investigative Efforts

Interviews

Chart Audits

Document Review

Investigative Findings

Summary

Factual Setting

Discussion

Meeting Announcing Official KH Billing and Documentation
Policy Regarding Nurse Practitioner Performed Services

Clarity of Understanding of Physician of New Billing and
Documentation Policy

Instructions By Division Director to Interpret Billing Policy

Physicians Thereafter Adopt Their Own Individual
Interpretations of the New Policy

Wilkinson
Medeiros

A20510

Woodruff
Glaser

Change in Physician Documentation Patterns

Indirect Evidence that Dr. Woodruff Submitted Claims for Invasive Procedures Performed by the Nurse Practitioner Which Were Charted by Woodruff as if She Had Participated in the Invasive Procedure

Patient Specific Case Involving Charting and Billing by Dr. Woodruff Where Woodruff Apparently Did Not Participate In, Perform, or Supervise the Procedure

Apparent Non-Submission of Nurse Practitioner Invasive Procedures for Billing

Wilkinson and Woodruff as Alleged "Whistleblowers"

Wilkinson

Woodruff

Corrective Action

Initial Stop Action on Billings and Policy Clarification

Disciplinary Action

Wilkinson

Woodruff

Medeiros and Glaser

Nurse Practitioner Fochtman

HemOnc Nurse Practitioner Position Elimination

KMS Physician Trainings

HemOnc Department Assessment

Repayment of Funds

Certification

A20511

EXHIBITS

- 1) August 1999 Kapi'olani Corporate Integrity Agreement
- 2) KMCWC HemOnc Department Analysis, Procedures Paid Claims Summary Charts, February 1997 through July 31, 2001
- 3) KMCWC HemOnc Department Audit, Summary of Findings, February 1997 to September 1, 1999
- 4) Interview Summary of KMCWC Employees
 - a) Susan Young, Former Director of Pediatrics and Transport
 - b) Dianne Fochtman, Pediatric Oncology Nurse
 - c) Carol Kotsubo, Pediatric Oncology Clinical Nurse Specialist
 - d) Mary Gaughran, HemOnc Charge Nurse
 - e) Millie Inchinose, Pediatric OR Charge Nurse
- 5) Interview Summary of KMS Employees
 - a) Desiree Medeiros, M.D.
 - b) Kelley Woodruff, M.D.
 - c) Darryl Glaser, M.D.
 - d) Randy Wada, M.D. and Wade Kyono, M.D.
 - e) Robert Wilkinson, M.D.
- 6) Interview Summary of KH CBO Employees
 - a) Kathleen Correia, CBO Manager
- 7) Interview Summary of KH Employees
 - a) Amy Schearer, Clinical Information System Analyst
 - b) Tracy Methered, Clinical Information System Analyst
- 8) Procedures Performed by Nurse Fochtman Based on Fochtman Procedure Logs, Summary of Findings, January 4, 2000 to May 25, 2001

- 9) KMCWC HemOnc Department Audit, Analysis of Select Patient Files and Billing Data, Summary of Findings, January 4, 2000 to May 25, 2001
- 10) Proposed Agenda, March 10, 1999, KMCWC HemOnc Department Meeting
- 11) Proposed Agenda, July 9, 1999, KMCWC HemOnc Department Meeting
- 12) Letter to all KMS Physicians from KMS President Richard Friedman dated August 27, 1999
- 13) Policy and Procedure for Teaching Physician Documentation for NICU, ED AND Inpatient Peds, October 20, 1999 version, November 8, 1999 version, and March 1, 2000 version.
- 14) KMCWC HemOnc Department, Non-Billed Woodruff Requests for Billings, January 19, 2000 to May 25, 2001
- 15) Patient CN Case, Summary of Findings and Interview Summaries
- 16) Copy of Compliance Report No. 0102-KAP-10005-01 Regarding Wilkinson Compliance Hotline Report dated February 11, 2001
- 17) Copy of Woodruff E-mail Memo to Compliance Officer Bob Ching, dated February 21, 2001
- 18) Copy of Woodruff E-mail Memo to Dr. Neal Winn, et al., dated April 5, 2001

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KAPI'OLANI HEALTH

KMCWC Hematology/Oncology Department

Voluntary Disclosure Submission

Introduction

Hawaii Pacific Health, dba Kapi'olani Health, serves as the Hawaii not-for-profit parent corporation for Kapi'olani Medical Center for Women and Children ("KMCWC") and Kapi'olani Medical Specialists ("KMS"). Both are Hawaii not-for-profit corporations. Kapi'olani Health ("KH") entered into a Corporate Integrity Agreement with the Office of the Inspector General in August 1999. (See Exhibit 1, August 1999 Kapi'olani Corporate Integrity Agreement.)

This document constitutes KH's disclosure ("Disclosure") of self-identified and investigated problems relating to billings for four (4) specific *invasive* procedures by KMS physicians for the time period from February 1997 through July 31, 2001.

This Disclosure is being made pursuant to CIA reporting requirements at Section III.H.2 relating to "Material Deficiencies." KH believes that the conduct described in this Disclosure constitutes a Material Deficiency as defined at CIA provision III.H.4(ii). The CIA outlines the contents of such a disclosure as follows:

- A. A complete description of the material deficiency, including the relevant facts, persons involved, and legal and program authorities;
- B. KH's actions to correct the material deficiency; and
- C. Any further steps KH plans to take to address such material deficiency and prevent it from re-occurring.

KH has made an express finding that the conduct described in this Disclosure does **not** raise any issues with respect to quality of care or patient health.

Disclosure Summary

On March 10, 1999, KH's Central Billing Office ("CBO") issued a new billing policy covering four (4) *invasive* procedures ("Procedures") performed in KMCWC's Pediatric Oncology/Hematology and Oncology ("HemOnc") Department. The policy established that patient charts must contain evidence that a physician, not an "advanced practice registered nurse" ("nurse practitioner"), personally performed the Procedures *in question in order for a claim to be submitted to a third party payor*. According to Hawaii law, a nurse practitioner can legally perform such Procedures under the appropriate supervision of a physician. This new policy was designed to clarify confusion over whether these same Procedures could be *billed* if performed, all or in part, by a nurse practitioner. No current authority would allow these invasive Procedures to be billed to third party payors if performed by a nurse practitioner in the HemOnc Department hospital setting.

A20514

Kapi'olani Health, KMC Hematology/Oncology Department

Voluntary Disclosure Submission

Page 2 of 23

Because of his disagreement with this new billing policy, the HemOnc Division Director, Dr. Robert Wilkinson, encouraged the physicians in the Department to develop their own "interpretation" of the new policy. This contributed to the submission by physicians of claims when a nurse practitioner, rather than a HemOnc physician, performed the invasive aspect of the Procedures in violation of the March 10 policy. This action by the HemOnc Division Director contributed to HemOnc physicians, particularly Dr. Kelley Woodruff, submitting invalid claim requests to KH's CBO for billing to third party payors.

Based on these findings, KH has decided to refund to third party carriers all funds paid for these four Procedures from February 1997 through July 31, 2001, in the total amount of \$64,859.14.

During this time window, claims were paid by 40 third party payors totaling \$64,859.14. Of this figure, \$9,772.61, or 15.07%, was paid by Hawaii Medicaid; \$3,717.92, or 5.73% was paid by Med-QUEST programs; and \$7.00, or 0.01%, was paid by Medicare and Tricare. Of this total, \$46,432.76 was paid during 1999, 2000, and 2001. (See Exhibit 2, KMCWC HemOnc Department Analysis, Procedures Paid Claims Summary Charts, February 1997 through July 31, 2001.)

Identifying Information

The services that are subject to this Disclosure were rendered between February 1997 and July 31, 2001, at KMCWC. KMCWC is located at 1319 Punahou Street, Honolulu, Hawaii 96826.

KMCWC's tax identification and provider numbers follows:

Tax Identification Number:	Federal:	99-0177350
	State:	10141495
Provider Numbers:	Medicaid:	A04366
	Medicare:	12-3300

The services in question were rendered by physician employees of KMS. KMS is also located at 1319 Punahou Street, Honolulu, Hawaii 96826. Its tax identification and provider numbers follow:

Tax Identification Number:	Federal:	99-0322406
	State:	10542575
Provider Numbers:	Medicaid:	None
	Medicare:	Group No. KMSP

A20515

Kapi'olani Health, KMC Hematology/Oncology Department
 Voluntary Disclosure Submission
 Page 3 of 23

The specific employee physicians involved in the incidences subject to this Disclosure are as follows:

<u>Physician Name</u>	<u>Medicaid Provider No.</u>	<u>Medicare Provider No.</u>
Darryl Glaser, M.D.	B223624	52173
Wade Kyono, M.D.	0212589	50456
Desiree Medeiros, M.D.	0210948	50105
Robert Wilkinson, M.D.	D037657	None
Kelley Woodruff, M.D.	B065959	51041

Robert Wilkinson, M.D. is HemOne Division Director and also maintains a private practice of medicine in Honolulu.

All services subject to this Disclosure were billed under the provider numbers of each individual KMS physician and the tax identification number of KMS.

To the best of KH's knowledge, there are no other health care businesses or providers, other than those listed above, affected by or involved in the described incidences.

To the best of KH's knowledge, there are no current state or federal government or third party intermediary inquiries or investigations into the subject matter of this Disclosure.

KH's Designated Representatives For Purposes of Voluntary Disclosure

KH is designating two authorized representatives for purposes of this Disclosure as follows:

Sharon On Leng, KH's In-House General Counsel. Ms. On Leng has been the primary KH contact for outside counsel and the Deloitte & Touche team conducting the Disclosure review. She can be reached as follows:

Sharon On Leng, Esq.
 General Counsel
 Kapi'olani Health
 55 Merchant Street, 27th Floor
 Honolulu, HI 96813
 Telephone: (808) 535-7440

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